

REASON: The Board of Physical Therapy has determined that there is reasonable necessity to amend ARM 24.177.401 in order to set the Board's fees at a level commensurate with program costs, as required by 37-1-134, MCA. In 2001, the Legislature mandated that the Board be attached for administrative purposes to the Department of Labor and Industry. The accounting allocations for the Board's costs have been restructured to track the actual time spent by Department staff in handling the Board's business. That accounting change was made by the Department in response to criticisms by some Boards of the cost allocations that had been historically used to calculate each Board's share of administrative costs. Similar concerns were independently voiced by the Legislative Audit Division, and the Department's decision to implement the accounting changes kept the Department from being "written up" by the legislative auditors. The Board respectfully notes that it and the Department, as part of the executive branch of government, have an obligation to be responsive to the concerns of the legislative branch. One portion of the fee increase is due to the more accurate and fair allocation of costs to the Board and its licensees. Another portion of the increase is attributable to normal increase in the cost of salaries, utilities, computer technology, and such. The Board estimates that the proposed increased fees will affect approximately 995 persons a year. The estimated annual increase in revenue is approximately \$41,750. With the proposed fee increases, the Board's projected annual revenue is \$77,050. The Board's appropriation for fiscal year 2005 was \$52,178 and for fiscal year 2006 is projected to be \$66,427. The Board does not receive any revenue for the NPTE or NPTAE examinations or verifications. Those fees are paid directly to the examination administrator. The Board believes that the proposed fee structure will address the Board's need to maintain fees at a level commensurate with costs.

The Board advises licensees and the public that it has researched the comparative fees of surrounding states. With the proposed fee increases, Montana fees are comparable to those charged by Colorado, Idaho, North Dakota, South Dakota, Oregon, Washington and Wyoming. The Board has not raised any fees for licensees in over ten years.

In addition, there is reasonable necessity to update and amend the IMP citations at this time while the rule is otherwise being amended. Sections 37-11-307 and 37-11-308, MCA, were repealed by Chapter 467, Laws of 2005 (HB 182).

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdp@mt.gov, and must be received no later than 5:00 p.m., January 6, 2006.

5. An electronic copy of this Notice of Public Hearing is available through the Department and Board's site on the World Wide Web at www.ptp.mt.gov. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Board of Physical Therapy Examiners maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Physical Therapy Examiners administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdp@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

8. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PHYSICAL THERAPY EXAMINERS
BRENDA MAHLUM, CHAIRPERSON

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State November 28, 2005

23-12/8/05

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